

Tallying Up the Costs of Easements

by Jeanne Wright

FROM A PINE-STUDD
BLUFF OVERLOOKING the cerulean lake water, I can sense the enduring rhythm of the land. The rock I am standing on is part of the Canadian shield—more than 2.5 billion years old. Across the lake is a portage historically used by the Ojibwa and now by avid canoeists. The Minnesota Land Trust accepted a conservation easement on this 14-acre piece of Minnesota north woods in 2002 and so is guardian of this special landscape.

Since its founding in 1991, the Minnesota Land Trust has completed more than 200 projects protecting nearly 20,000 acres, almost all through donated conservation easements. From the beginning, the board of directors recognized the long-term commitment the organization was making to the property owner, the public and the land every time it accepted a conservation easement. Each new project protects an important scenic or natural area. Each also represents a potential liability.

In the early years, the board asked each landowner to donate at least \$2,500 per project to a Stewardship and Enforcement Fund. The fund was intended to cover the



Minnesota Land Trust

This 14-acre parcel, protected with a conservation easement held by Minnesota Land Trust, features boreal forest species, wildlife habitat and a rugged basalt shoreline on the edge of the Boundary Waters Canoe Area Wilderness Area.

annual costs of managing and monitoring the conservation easement and, if necessary, defending the easement in court. While \$2,500 per project helped establish this fund, the annual return—approximately \$125—was inadequate to cover the costs of permanent land protection. To help the land trust understand all of the costs required to complete and steward a project, in 2001 we added up the costs of each step, including initial conversations with landowners, negotiating and completing a conservation easement, annual monitoring visits and potential easement amendments or violations.

Using the land trust's 10 years of experience, staff based

estimates on time for the protection and monitoring process, including fielding landowner questions and considering amendments. We analyzed financial records to determine the actual costs for activities such as developing property reports, creating GIS maps and conducting aerial flights. To help estimate potential enforcement costs, we talked to a half dozen other land trusts and reviewed their policy statements and calculation worksheets. We also reviewed articles published in *Exchange*.

We established six cost categories, with the first three representing one-time expenses:



Minnesota Land Trust holds a conservation easement on this 120-acre Long Pond Elk Farm in Sherburne County, protecting restored native prairie, woodlands, wetlands and ponds.

- A. Initial project costs:** An initial site visit, project planning, landowner negotiations, title evaluation and drafting and recording a conservation easement.
- B. Property report:** Gathering and compiling information required for the initial baseline property report.
- C. Initial stewardship costs:** File review and initial landowner contact by staff after the conservation easement has been recorded. Landowner recognition gifts might also be applicable. While the Minnesota Land Trust does not typically engage in land management, this category provides a format to factor in any initial land management costs.
- D. Monitoring and ongoing easement management:** Ongoing costs that the land trust incurs to carry out legal monitoring obligations on each project. Requirements include annual site visits, file management and a formal review and update of the baseline property reports every five to 10 years.
- E. Encouraging voluntary compliance and positive landowner relations:**
1. Landowner recognition celebration and an annual landowner newsletter;
 2. Promoting completed projects to the media and holding neighborhood gatherings to recognize landowners and talk about land trusts and the value of easements;
 3. Approving rights reserved by a landowner, such as the right to construct a building; and
 4. Amending a conservation easement. We estimate that an approval for a landowner's reserved rights will be needed every five years and an amendment will be needed every 10 to 20 years.
- F. Enforcement:** The Minnesota Land Trust and the land trust community have had limited experience with judicial enforcement of easements. Land trusts we spoke with estimate judicial action could cost between \$20,000 to \$60,000 or more per violation. Predicting the frequency

of possible violations and the need for judicial enforcement is even more difficult. To establish a fund sufficient to cover anticipated expenses, \$1,000 has been included in the project cost analysis. Based on a return of 5 percent, this would generate approximately \$50 per year for one project or \$5,000 per year for 100 easements. Over time, a large enough fund should be established to allow for needed legal defense while still leaving sufficient funds in a stewardship account to cover ongoing needs.

The following chart breaks down our expenses into the categories listed above. Although it identifies a range of costs, the most useful figures are in the "typical" column. These figures do not represent an average of project numbers but are based on the steps and costs involved in the most common conservation easement projects completed by the Minnesota Land Trust.

TOTAL PROJECT COSTS	Low	High	Typical
A. Initial project cost	\$1,562	\$21,084	\$2,900
B. Baseline documentation	\$1,194	\$2,645	\$1,564
C. Initial stewardship	\$30	\$40	\$30
D-E. Monitoring/compliance—initial investment required to cover annual expenses at 5% return	\$6,843	\$40,036	\$12,065
F. Enforcement	\$1,000	\$1,000	\$1,000
Total project costs (A-F)	\$10,629	\$64,805	\$17,559

The "low" column represents a straightforward project that, for example, would not have an existing building site or permit future development.

For the "high" column, we estimated the costs for a complex transaction that could include a survey, appraisal and any additional landowner visits.

For the ongoing expenses (identified in the chart as D-E plus F), we identified the initial amount required to create a reserve or endowment large enough to generate income to cover the annual costs of these recurring expenses. A typical project would require an estimated cash donation of \$17,500 to cover the costs of accepting a donated easement. While the analysis shows more complex projects could cost as much as \$64,000, it is unlikely a single project would incur all the high-end expenses.

The analysis enabled us to begin basing our planning and financial projections on accurate numbers and to provide foundations and donors much more information about the cost of the services provided by the land trust. It also resulted in a 2002 grant from Minnesota's Environmental Trust Fund to help us fund stewardship obligations.

Outcomes

After several discussions, the board reaffirmed its commitment to undertake meritorious but underfunded projects.



Wilderness Lakes, MN

Thus a landowner's inability to contribute to the fund does not necessarily halt the project.

The board further reaffirmed that the land trust generally will use its operating funds to cover costs associated with initial project development and continue to pool contributions into the Stewardship and Enforcement Fund with the goal of creating a fund that is financially able to meet the costs of its ongoing obligations.


Thus the land trust now asks landowners to consider donating to the Stewardship and Enforcement Fund at three times the amount requested before the study was completed. Most landowners have been receptive to our cost analysis and willing to give larger donations. The average donation is \$10,000, compared with \$2,500 before the analysis.

Two other outcomes resulted from the analysis. First, we improved our filing system for projects, revised our conservation easement document and completed other steps to make our systems and procedures for completing conservation projects more efficient. We also formally committed to completing certain procedural steps, such as title review and GIS mapping, for every project.

Second, the analysis highlighted the importance of landowner relations and voluntary compliance as cost-effective methods for minimizing easement infractions. Therefore, the Minnesota Land Trust is communicating regularly with landowners and celebrating its successes through special events and media outreach.

A re-analysis of the figures reaffirmed that most of our conclusions were accurate and required just minor adjustments. In fact, our long-term cost estimates dropped slightly because we realized we had been too aggressive in our expectations. Rather than assuming we might have an exercise of reserved rights once every five years and an amendment every 10 years, we now estimate the exercise of reserved rights every 10 years and the amendment every 20 years.

With the information gleaned from the project cost analysis, the Minnesota Land Trust is continuing its commitment to providing high quality conservation work throughout

Minnesota and demonstrating our commitment to the long-term stewardship of our conservation easements. 

Jeanne Wright joined the Minnesota Land Trust in 1995 as land protection specialist. Since its founding in 1991, the land trust has protected nearly 20,000 acres and completed 217 projects, almost all of them donated conservation easements.

In preparing its land stewardship cost analysis, Minnesota Land Trust reviewed policy statements and calculation work sheets from a half-dozen or more land trusts including Dutchess Land Conservancy (NY), Adirondack Land Trust (NY) and Columbia Land Trust (WA). Minnesota Land Trust also reviewed two articles in *Exchange*: "[Growing Pains and Stewardship Funds: The Northwest Experience](#)," which appeared in the Fall 1997 issue, and "[Easement Stewardship: Building Relationships or the Long Run](#)," which appeared in the Spring 2002 edition. Past issues of *Exchange* can be found on www.LTAnet.org, LTA's password-protected Web site. ■